

ATTACHMENT I

AGREEMENT FOR ARCHITECTURAL/ENGINEERING CONSULTANT SERVICES

THIS AGREEMENT is made and entered into this _____ day
of _____, 20__, between the County of Fresno, a political
subdivision of the State of California, (hereinafter called
"COUNTY"), and
[Consultant's firm name] _____, Architect
/ Engineer, (A [State] Corporation / Partnership),
[Individual's name] _____ a sole proprietor doing
business as **[Firm name]**,
[address] _____, (hereinafter called
"CONSULTANT").

W I T N E S S E T H:

WHEREAS, COUNTY plans to construct a new facility for the
Coroner / Public Administrator / Public Guardian, hereinafter
called the project; and

WHEREAS, said CONSULTANT is qualified and willing to provide
the COUNTY the professional, architectural and engineering services
needed for this project.

WHEREAS, COUNTY desires to retain a consultant architect /
engineer to prepare plans, specifications, opinion of probable
construction cost and other documents required for the project; and

WHEREAS, said consultant architect/engineer has been selected
in accordance with COUNTY's Ordinance Code Chapter 4.10 on the
selection of architects, engineers, and other professionals to
provide the engineering services necessary for the Project.

NOW, THEREFORE, the parties hereto have and by these presents
do agree as follows:

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ATTACHMENT I

1 I. CONTRACTING WITH CONSULTANT: BASIC PARAMETERS

2 A. The COUNTY hereby contracts with the CONSULTANT as an
3 independent contractor to provide consultant services as required
4 for the project. Said services are described in Article II and
5 enumerated in Article III herein.

6 B. The CONSULTANT shall retain structural engineering,
7 electrical engineering, mechanical engineering and other
8 subconsultants as CONSULTANT requires to assist in completing the
9 work. All subconsultants used by CONSULTANT shall be approved by
10 the COUNTY's Director of the Department of Public Works and
11 Planning or his/her designee before they are retained by the
12 CONSULTANT, which approval shall not be unreasonably withheld.
13 Subconsultants listed in Exhibit A, attached hereto and
14 incorporated herein, shall be considered as approved by the COUNTY.

15 Should CONSULTANT retain any subconsultants, compensation to be
16 paid to CONSULTANT under Article V below, shall not be increased.

17 C. The CONSULTANT's services shall be performed as
18 expeditiously as is consistent with professional skill and the
19 orderly progress of the work, based on project schedules as
20 mutually agreed by the COUNTY and the CONSULTANT.

21 D. The CONSULTANT and affiliated subconsultants shall not
22 submit bids, or subbids, for the contract construction phase of the
23 project for which CONSULTANT provides services hereunder. The
24 CONSULTANT and its subconsultants, and all other service providers,
25 shall not provide any project-related services for, or receive any
26 project-related compensation from any construction contractor,
27 subcontractor or service provider awarded a construction contract
28 for all or any portion of the for which CONSULTANT provides

ATTACHMENT I

1 services hereunder. The CONSULTANT and its subconsultants, and all
2 other service providers, may provide services for, and receive
3 compensation from a construction contractor, subcontractor or
4 service provider who has been awarded a construction contract for
5 all or any portion of the project, provided that any such services
6 which are rendered, and any compensation which is received therefor
7 relates to work outside the scope of this Agreement.

8 E. The contact person(s) for the CONSULTANT shall be:

9 _____ telephone _____, fax _____, email, _____, web _____.

10 II. DESCRIPTION OF THE WORK COVERED BY THIS AGREEMENT:

11 The work covered by this Agreement is for the consultant
12 services necessary for the planning and construction of a facility
13 for the Fresno County Coroner/ Public Administrator / Public
14 Guardian and may service the needs of surrounding counties. The
15 project will have two components. Component I will involve
16 conducting a needs assessment and financing sources investigation
17 and developing a building program, conceptual design and site plan,
18 schematic designs, financial study and project estimate. Component
19 II will involve providing design development and construction
20 documents, and tasks overseeing bidding and administration,
21 construction and post construction phases.

22 III. SERVICES OF THE CONSULTANT

23 General Requirements:

24 Throughout the duration of the project, the CONSULTANT
25 shall communicate and meet with COUNTY's project committee and
26 staff as often as necessary (a minimum of one meeting every two
27 weeks during Component I) in order to verify, refine, and complete
28 the project requirements and review the progress of the project.

ATTACHMENT I

1 All meetings will be held in Fresno. CONSULTANT shall prepare
2 brief minutes of the meetings attended and shall provide a copy of
3 all such minutes to the COUNTY. CONSULTANT shall develop and
4 maintain a project schedule and status report that will be updated
5 and submitted to the COUNTY on a bi-monthly basis. The CONSULTANT
6 shall monitor and keep the COUNTY informed regarding the impact of
7 design issues on the project budget. Upon the request of the
8 COUNTY, CONSULTANT shall incorporate into the design such
9 reasonable changes as the COUNTY deems appropriate as a result of
10 the COUNTY's review processes and impact of the budget or opinion
11 of probable construction cost. If CONSULTANT disagrees with the
12 COUNTY's request, such disagreement must be registered in writing
13 and the COUNTY will attempt to reconcile such disagreement. If it
14 is impossible to make reconciliation, the written disagreement will
15 become a part of the project record. However, CONSULTANT shall
16 then comply with the COUNTY's request.

17 If it is determined by COUNTY that performance of the
18 approved personnel is not acceptable, COUNTY may order in writing
19 without stating cause that such person or persons be removed from
20 the project and replaced. Names of proposed replacement personnel,
21 if requested, shall be made within a period not to exceed five (5)
22 working days from such order and be activated within ten (10) days
23 of request.

24 The COUNTY may take up to four (4) weeks to review and
25 comment on final draft submittals for phases 1 through 5.

26 At the completion of each phase of the project, the
27 CONSULTANT should not proceed to the next phase unless expressly
28 authorized to do so by the COUNTY.

ATTACHMENT I

1 The services required of the CONSULTANT may include, but
2 not necessarily be limited to the following phases of work:

3 A. COMPONENT I (Not Anticipated to Exceed 6 Months)

4 Phase 1, Needs Assessment / Financing Sources
5 Investigation

6 The CONSULTANT shall:

7 1. Gather and review historical data from the U.S.
8 Census, California Department of Finance, COUNTY vital statistics,
9 and other information sources to determine population
10 characteristics for up to seven surrounding Central Valley
11 counties, and/or other methods to justify the need and projections.

12 2. Evaluate the existing facility and staffing
13 characteristics by conducting interviews and visual inspections
14 with the participation of the project committee, in order to
15 determine operational requirements and space allocations, etc.

16 3. Participate in field trips with the project committee
17 to interview other public agencies that have recently completed
18 coroner, morgue and public administrator facilities. Assess
19 information gathered and prepare a report of findings.

20 4. Investigate and gather information on financing
21 sources for the project. This will include identifying public
22 funding sources such as grants, possible untapped revenue streams,
23 loans or debt financing instruments, private financing methods,
24 user fees or other methods of available project financing.

25 5. Analyze and synthesize information gathered and
26 prepare a report on needs assessment and financing sources. The
27 report shall forecast needs for the next 20 year period and
28 forecast site utilization needs for the next 50 years. The report

ATTACHMENT I

1 shall be comprehensive in nature, providing alternatives and
2 recommendations for action.

3 6. Submit draft report to the project committee for
4 review and comments. Review comments and make corrections to the
5 document.

6 7. If requested, prepare and present a report of the
7 needs assessment and financing sources investigation to the Board
8 of Supervisors.

9 Phase 2, Building Program / Conceptual Design and Site
10 Plan

11 The CONSULTANT shall:

12 1. Based on the findings from the needs assessment and
13 financing sources investigation and direction provided by the
14 project committee, develop a building program that will include a
15 conceptual design and site plan. The building program shall
16 include, but not be limited to consideration of the following:

17 a. The facility's exterior needs and requirements such
18 as infrastructure, off-street parking, on-site traffic circulation
19 and segregation of activity, outdoor lighting and security.

20 b. Interior components such as office and other
21 functional area square footage requirements, conceptual furniture
22 layout with preferences, medical and other equipment requirements,
23 mechanical and electrical system requirements and space needs,
24 maintenance expectations.

25 c. A project development timeline and a document
26 production schedule.

27 2. Complete the building program to the extent necessary
28 to fully define space requirement needs and required adjacencies

ATTACHMENT I

1 and proximities to fully develop the proposed facility.

2 3. Submit and review with the COUNTY ten (10) copies of
3 the building program and conceptual design and site plan for review
4 by the COUNTY.

5 4. Review and make corrections to the document as
6 necessary after review by project committee.

7 5. If requested, prepare and present a report of the
8 updated building program and conceptual design and site plan to the
9 Board of Supervisors.

10 6. Not proceed with the next Phase unless expressly
11 authorized in writing by COUNTY.

12 Phase 3, Schematic Design / Financing Study / Project
13 Estimate:

14 The CONSULTANT shall:

15 1. Develop project parameters in concert with the
16 COUNTY's project committee members' recommendations and concerns.
17 Confer with the project committee on construction system component
18 preferences, scheduling, bidding and contracting strategies.

19 2. Review and evaluate proposed sites through visual
20 observation and archive document research to coordinate the
21 development of on-site infrastructure such as electrical,
22 mechanical, plumbing, communication, telephone, and computer
23 systems. Document the existing utility system configuration and
24 possible interference with or impact on the proposed improvements.
25 Assess all on and off-site development needs.

26 3. Identify and document all regulatory compliance
27 measures and approval processes required to complete this project.

28 4. Develop schematic design plans, sketches and/or

ATTACHMENT I

1 drawings and reports consisting of conceptual illustrations with
2 continuing input and review from the project committee.

3 5. Prepare a schematic design consisting of floor plans
4 with square footage and rough dimensions, and illustrate the
5 function of the rooms, cross sections and exterior elevations.
6 More than one proposed floor plan may be required. Also prepare a
7 site plan showing on-site traffic circulation.

8 6. Prepare an independently verified schematic design
9 opinion of probable construction cost. Include in a report the
10 construction cost, budget estimates, and project timeline for the
11 proposed development. The report shall define a cost of major
12 project components and provide cost saving measures.

13 7. Provide six (6) printed copies of selected documents
14 including plans, cost estimates, outline specifications and design
15 data to the COUNTY for value engineering review. Review and
16 analyze findings and alternatives provided by the COUNTY and/or
17 value engineering consultant.

18 8. Prepare estimates comparing different construction
19 systems, reports on cost benefit analysis and life-cycle costs and
20 justify and/or substantiate recommended course of action.

21 9. Review and analyze a COUNTY provided schematic design
22 opinion of probable construction cost. Participate in a meeting
23 with the project committee to reconcile any differences between
24 CONSULTANT's independent opinion of probable construction cost and
25 the COUNTY provided opinion of probable construction cost. Make
26 corrections and changes as directed at no additional cost to the
27 COUNTY.

28 10. Prepare a financial study, incorporating findings from

ATTACHMENT I

1 the needs assessment and financing sources report and providing an
2 assessment as to whether the vision of the facility can be met with
3 available funding sources. The financial study shall be
4 comprehensive in nature, providing alternatives and recommendations
5 for actions.

6 11. Prepare presentation quality colored site and floor
7 plans, exterior elevations and street level perspective rendering
8 of building entrance. Also prepare an aerial rendering of proposed
9 site configuration.

10 12. Prepare a list and schedule of recommended medical
11 equipment (class I, class II and class III) and lab equipment
12 required for the facility.

13 13. Prepare conceptual office furniture layout utilizing
14 COUNTY provided area standards.

15 14. Coordinate and integrate with COUNTY's contracted
16 office furnishings CONSULTANT to prepare a list and schedule of
17 recommended furnishings.

18 15. Submit to the COUNTY thirty-five (35) copies of the
19 needs assessment, building program, final schematic design,
20 financial study and project cost estimate report. The financial
21 study and project cost estimate report shall be bound, in color and
22 of presentation quality. The copies shall be submitted to the
23 COUNTY ten (10) calendar days prior to the Board of Supervisors
24 meeting. Meet with project committee to review submitted
25 documents.

26 16. Make a formal presentation before the Board of
27 Supervisors of the schematic design, renderings, financial study
28 and project cost report. Attend and participate in a rehearsal

ATTACHMENT I

1 prior to presentation of the project before the Board of
2 Supervisors.

3 17. Continue to incorporate into the design changes
4 required through the time of project approval of the schematic
5 design and make changes to the presentation as directed by the
6 COUNTY.

7 18. Not proceed with the next Phase unless expressly
8 authorized in writing by COUNTY.

9 B. COMPONENT II

10 Phase 4, Design Development:

11 The CONSULTANT shall:

12 1. Develop project parameters in concert with the
13 COUNTY's project committee member's recommendations and concerns.
14 Confer with the project committee on construction system component
15 preferences, scheduling, bidding and contracting strategies.

16 2. Prepare in this phase of work (or in a subsequent
17 phase if so directed by the COUNTY representative) all data
18 necessary to comply with all review agencies, and COUNTY permits
19 and land use requirements within the project schedule.

20 3. Research and analyze all applicable codes to insure
21 compliance.

22 4. Prepare the design development (preliminary) drawings
23 and preliminary specifications. Plans shall be prepared on a CAD
24 system acceptable to the COUNTY (such as Auto CAD or DataCAD) and
25 submitted to the COUNTY on 30" X 42" (maximum size) sheets, or
26 other size approved by COUNTY. All text documents shall be
27 prepared on electronic files capable of being opened by Microsoft
28 Word or Word Perfect software and submitted to COUNTY on 8 ½" X 11"

ATTACHMENT I

1 pages. The preliminary design shall consists of floor plans,
2 (exterior) elevations, (interior) cross sections, landscaping plan,
3 site and grading plans, site survey and other drawings drawn to
4 scale and showing the location of walls, doors, windows, equipment
5 fixtures, and other necessary items together with the requirements
6 for the electrical, heating, plumbing, air-conditioning, and other
7 work necessary to complete the project. This preliminary design
8 submittal shall also include the fixture cuts for all pieces of
9 equipment included in the design.

10 5. Prepare a furniture and medical / lab equipment layout
11 to determine the need for new furniture and equipment by the
12 Coroner / Public Administrator / Public Guardian. Fixed medical /
13 lab equipment shall be included in the opinion of probable
14 construction cost.

15 6. Identify and define distribution systems, and
16 performance criteria for mechanical and electrical system
17 components.

18 7. Prepare a detailed and independently verified design
19 development opinion of probable construction cost that shall
20 identify, in CSI/UCI 16 division format, the building components
21 and requirements of the project. The estimated cost of each
22 building, on-site improvements and off-site improvements shall be
23 prepared along with a summary showing the total project cost.

24 a. The opinion of probable construction cost shall be
25 projected to the midpoint of the probable construction and shall
26 include material and labor unit costs, overhead, profit, insurance,
27 taxes, general requirements, supervision, and difficulty factors
28 and shall be submitted in the CSI/UCI 16 division format.

ATTACHMENT I

1 b. The opinion of probable construction cost shall
2 identify construction cost escalation and design contingency
3 amounts, which must be approved by the COUNTY prior to their
4 inclusion in the opinion of probable construction cost. The
5 opinion of probable construction cost shall assume a competitive
6 bid process within the Fresno County area.

7 8. Review and analyze a COUNTY provided design
8 development opinion of probable construction cost. Participate in
9 a meeting with the project committee to reconcile any differences
10 between the CONSULTANT provided opinion of probable construction
11 and the one provided by the COUNTY's independent consultant cost
12 estimator.

13 9. Prepare applications, and assist the COUNTY in
14 submitting applications and expediting agency review processing as
15 may be required for this project. This will include developing all
16 data necessary to complete applications and the processing of a
17 conditional use permit (if required), environmental documents (if
18 required), site plan review and building permits. Provide
19 necessary document printing [up to fifty (50) copies] including but
20 not limited to site plan and survey, grading, landscape and
21 irrigation plans and building exterior elevations.

22 10. As directed by the COUNTY's staff, attend, participate
23 and make graphic and oral presentations at all public hearings.
24 Prepare color renderings of site plans, elevations, birds-eye
25 perspective of full facility and ground level entry perspective.

26 11. Submit to the COUNTY fifteen (15) sets of completed
27 design development (preliminary) plans, specifications fixture
28 cuts, reports and opinion of probable construction cost for the

ATTACHMENT I

1 review, comment and evaluation by the project committee, and
2 responsible fire prevention bureau.

3 12. Review and explain in both a verbal and a written
4 report the full detail of all elements to be included in the
5 project (including those elements not shown but included in the
6 drawings and outline specifications) with the project committee,
7 and Department of Public Works and Planning staff.

8 13. Continue to incorporate into the design in the
9 succeeding phase of the work, the changes identified from the
10 project approval of the design development (preliminary design) at
11 no additional cost to the COUNTY.

12 14. Not proceed with the next Phase unless expressly
13 authorized in writing by COUNTY.

14 Phase 5, Construction Documents:

15 The CONSULTANT shall:

16 1. Prepare final working drawings from preliminary plans,
17 as modified by the COUNTY, on a CAD system acceptable to the COUNTY
18 (such as DataCAD or AutoCAD) and on 30" by 42" (maximum size)
19 sheets, or other size approved by COUNTY, drawing size sheets and
20 technical specifications on 8-1/2" by 11" pages setting forth in
21 detail the work to be done, the materials, workmanship, finishes,
22 and equipment required for the mechanical, electrical, plumbing and
23 other components of construction necessary to provide the COUNTY a
24 complete and functional project for its intended purpose.

25 2. Prepare construction specifications in CSI/ UCI 16
26 division format with an IBM PC-compatible word processing program
27 such as Microsoft Word or WordPerfect.

28 3. Include in the specifications a construction

ATTACHMENT I

1 sequencing of work. COUNTY's project committee shall review and
2 approve the schedule prior to completing the final construction
3 documents.

4 4. Review, comment, and/or make recommendations on the
5 form and content of the COUNTY's General Conditions, Special
6 Conditions, and Bid Form as they apply towards the project.

7 5. In addition to the technical specifications, prepare
8 special or supplemental conditions for the construction contract,
9 including a Health and Safety Plan. The COUNTY will package the
10 CONSULTANT's documents with the COUNTY's approved General
11 Conditions, Notice to Contractors calling for bids, the Bid Form,
12 and related documents to complete the construction contract and bid
13 specifications.

14 6. Monitor and keep COUNTY informed regarding the impact
15 of design issues on the project budget. Upon the request of the
16 COUNTY, CONSULTANT shall incorporate into the design such
17 reasonable changes as the CONSULTANT deems appropriate as a result
18 of the COUNTY's review processes and impact on the project budget
19 or opinion of probable construction cost.

20 7. Submit to the COUNTY a final opinion of probable
21 construction cost in the CSI/UCI 16 division format for the base
22 bid work and alternate bid items. The opinion of probable
23 construction cost shall be projected to the midpoint of the
24 scheduled construction period to be scheduled by the COUNTY.
25 Differences between the design development (preliminary) and final
26 opinion of probable construction cost shall be explained in
27 writing.

28 8. Not proceed with the next Phase unless expressly

ATTACHMENT I

1 authorized in writing by COUNTY.

2 Phase 6, Bidding and Award:

3 The CONSULTANT shall:

- 4 1. Deliver to the COUNTY two (2) weeks prior to the
5 advertising date (which date will be determined by COUNTY), the
6 final completed original drawings and specifications for COUNTY
7 printing and distribution of bid sets to interested contractors.
8 The original drawings and specifications index sheet shall be
9 stamped by a seal with CONSULTANT and subconsultants' license
10 numbers and/or signed in accordance with the California Business
11 and Professions Code.
- 12 2. Submit a list of general and specialty contractors who
13 may be interested in bidding on this project.
- 14 3. Attend the pre-bid conference scheduled by the COUNTY.
- 15 4. Prepare addendum drawings and other documents as
16 required to clarify scope of work to be bid upon, at no additional
17 cost to the COUNTY. Coordinate subconsultants' addendum drawings
18 and documents.
- 19 5. Prepare drawings and work necessary to delineate
20 either the COUNTY's changes in scope to the contract or changes in
21 job-site conditions due to inaccurate information provided by the
22 COUNTY. Such work shall be provided as directed by the COUNTY
23 representative and shall be an Extra Service to the CONSULTANT's
24 agreement.
- 25 6. Submit to the COUNTY for review and approval any
26 addenda deemed necessary. Addenda, if any, shall be submitted no
27 later than ten (10) working days prior to the scheduled bid
28 opening. The addendum shall be distributed by the COUNTY. An

ATTACHMENT I

1 electronic copy of addenda items shall be furnished to the COUNTY.

2 No addendum will be issued in the 72 hour period prior to bid
3 opening.

4 7. Assist the COUNTY in evaluating the base bids and
5 alternate bid items received.

6 8. Delete or otherwise change portions of the
7 construction work at the request of the COUNTY if the lowest bid
8 proposal for the proposed construction contract exceeds the COUNTY
9 approved opinion of probable construction cost (which will include
10 the CONSULTANT's design contingency amount approved by the COUNTY)
11 by 10% or more, and if the COUNTY rejects all bids. In such event,
12 the CONSULTANT shall revise the plans and specifications to comply
13 with such modifications and also shall assist the COUNTY in
14 obtaining new proposals from contractors, all at no additional cost
15 to the COUNTY. Such modifications shall be completed on a time
16 schedule commensurate with the scope of the change and as set forth
17 by the COUNTY.

18 Phase 7, Construction Observation:

19 The CONSULTANT shall:

20 1. Attend pre-construction conference scheduled by the
21 COUNTY.

22 2. Provide limited construction observation including but
23 not limited to:

24 a. Within two (2) working days of COUNTY's request
25 for information (RFI), respond to the County Construction Engineer
26 or Contractor, through the County Construction Engineer with
27 information and/or drawing needed from CONSULTANT in order to
28 clarify the intent of the construction contract plans and

ATTACHMENT I

1 specifications of the project. CONSULTANT shall review
2 Contractor's cost proposal for all change orders associated with
3 any additional work as may be necessary by the RFI clarification.

4 b. Except for color boards, within seven (7) working
5 days of COUNTY's request, review and make recommendations for
6 samples, schedules, shop drawings, and other submissions for
7 general conformance with the design concept of the project and for
8 general compliance with the plans and specifications and
9 information given by the CONSULTANT's contract documents.

10 c. Recommend and assist in the preparation of
11 necessary change orders, with supporting documentation,
12 calculations and opinion of probable construction cost, for review
13 and issuance of change orders by the County Construction Engineer
14 to obtain appropriate agency acceptance and approval.

15 (1) Provide drawings and work necessary to
16 delineate the COUNTY's changes in scope of the construction
17 contract or to make modifications as directed by the Board of
18 Supervisors, which shall be made as directed by the Construction
19 Engineer and shall be compensated as an Extra Service.

20 (2) Notwithstanding the forgoing, where the change
21 order arises as a result of a negligent error, act or omission of
22 the CONSULTANT, the CONSULTANT shall not be compensated as an Extra
23 Service for time spent or cost incurred in efforts connected with
24 the correction thereof. The cost of rework of installed work shall
25 be assessed upon the CONSULTANT's contract payments.

26 (3) Any changes to the construction contract shall
27 be made only with written COUNTY approval.

28 d. Make recommendations to the COUNTY on all claims

ATTACHMENT I

1 of the COUNTY or construction contractor (hereinafter called
2 "Contractor") and all other matters relating to the execution and
3 progress of work, including interpretation of the CONSULTANT's
4 contract documents.

5 3. At intervals appropriate to the stage of construction
6 as requested by the Construction Manager, or as otherwise deemed
7 necessary, visit the project construction site as may be necessary
8 to become familiar generally with the progress and quality of the
9 work and to determine that the work is proceeding in general
10 accordance with the contract documents.

11 4. Review all field testing reports and make
12 recommendations to accept, retest or reject.

13 5. Based on the CONSULTANT's visits to the site,
14 CONSULTANT shall keep the COUNTY informed through written reports
15 as to the progress of the work, shall endeavor to advise the COUNTY
16 of defects and deficiencies observed in the work of contractors,
17 and may recommend that the COUNTY reject work as failing to conform
18 to the contract documents.

19 6. Based upon his limited observations of the progress of
20 construction and the Contractor's application for payment, assist
21 the Construction Inspector in determining on a monthly basis, the
22 amount owing to the Contractor under the contract documents and
23 recommend, through appropriate certificates, payments on such
24 amounts. Such certificates shall construct a representation to the
25 COUNTY that the work has progressed to the point indicated and that
26 to the best of the CONSULTANT's knowledge, information and belief,
27 the quality of the work is in accordance with the contract
28 documents.

ATTACHMENT I

1 7. Conduct site visits which shall include but not be
2 limited to on-site inspections to determine the dates of
3 substantial completion and final completion and to recommend to the
4 COUNTY its acceptance to the of the work, for the filing of the
5 notice of completion and issuance of final certificate of payment.

6 8. Conduct a "project shakedown" of all the building's
7 systems, mechanical, plumbing, security electronics, public address
8 system, fire alarm, etc. and maintenance staff orientation for the
9 completed project.

10 9. Not charge for the costs of drawings, engineering and
11 other work and expenses necessary to correct negligent errors, acts
12 and omissions and other inaccuracies attributed to the CONSULTANT's
13 design work.

14 Phase 8, Post Construction:

15 The CONSULTANT shall:

16 1. Review and forward to the County Construction Engineer
17 four (4) copies and an electronic version on CD ROM of Operations
18 and Maintenance Manuals to be furnished by the Contractor.

19 2. Inform the COUNTY of all written guarantees
20 required of the Contractor by the CONSULTANT's technical
21 specifications or special conditions.

22 3. Return to the COUNTY all plans borrowed from COUNTY.

23 4. Upon completion of the project, obtain from the
24 Contractor information of all the changes to the project, transfer
25 them to project plan originals, then make one (1) set Mylar
26 reproducible "record" drawings, and make one (1) record print set
27 and deliver both "record" drawings and "record" prints to the
28 Department of Public Works and Planning.

ATTACHMENT I

1 5. Assist the COUNTY with any claim resolution process
2 involving Contractor and COUNTY. This may be considered as Extra
3 Services unless the CONSULTANT is found negligent in the project's
4 development.

5 6. Participate in the early settlement discussions of
6 construction claims resolution issues. Participation in this
7 process does not preclude the COUNTY's right to make a negligent
8 error and omissions claim against the CONSULTANT.

9 7. Provide construction plans prepared with a CAD system,
10 record drawings in the form of .dxf or .dwg files and mylar
11 reproducibles that shall be furnished and delivered to Department
12 of Public Works and Planning. Such .dxf or .dwg files shall be
13 furnished on either 100 MB 'Zip' disks or compact disk (CD-ROM).
14 Final plans and specifications become the property of the COUNTY
15 and can be used by the COUNTY at its own discretion.

16 8. No final payment to the CONSULTANT will be issued
17 until the services of this Phase have been performed and negligent
18 errors, acts and omissions attributed to the CONSULTANT have been
19 resolved.

20 IV. COUNTY'S OBLIGATIONS:

21 The COUNTY will:

22 A. Compensate the CONSULTANT as provided in this Agreement.

23 B. Provide a "COUNTY Representative" who will represent the
24 COUNTY and who will work with the CONSULTANT in carrying out the
25 provisions of this Agreement. The COUNTY Representative will be
26 the COUNTY Capital Project Division Manager through award of the
27 construction contract and the COUNTY Construction Engineer after
28 award of the construction contract and through completion of

ATTACHMENT I

1 construction work by the CONTRACTOR. The CONSULTANT shall
2 communicate and coordinate with the COUNTY Representative who will
3 provide the following services:

4 1. Prepare the title sheet for each project's plans.

5 2. Provide prints, if available, of the construction
6 plans, calculations, and reports prepared to evaluate the buildings to
7 be demolished. Documents shall be cosigned to the CONSULTANT shall
8 be returned to the COUNTY upon request or project completion. The
9 return by CONSULTANT of all loaned documents is mandatory. Final
10 payment will not be made to CONSULTANT until all loaned documents
11 are either accounted for or returned.

12 Process the site plan review application with CONSULTANT-
13 supplied site plans, grading and drainage plans, landscape plans,
14 floor plans, elevations, operational statement, and staffing
15 requirements.

16 4. Pay all local required plan check and project review
17 fees.

18 Examine documents submitted to the COUNTY by the CONSULTANT
19 and timely render decisions pertaining thereto.

20 Provide communication between the CONSULTANT and COUNTY
21 officials and commissions (including user Department).

22 Provide the CONSULTANT with the form of contract to be entered
23 into between the COUNTY and CONTRACTOR, including the COUNTY's
24 General Conditions, Notice To Contractors calling for bids, Bid
25 Form, and related COUNTY documents.

26 8. Pay for the reproduction costs of printing the final
27 bidding and construction documents.

28 Provide a construction inspector for continuous inspection as

ATTACHMENT I

1 hereinafter provided.

2 10. Retain, when required an independent testing
3 laboratory to provide necessary soils, structural, chemical,
4 mechanical, air balance, electrical or other tests and reports as
5 may be required to assure quality control and construction
6 compliance with the plans and specifications. COUNTY may elect, at
7 its option, to assign this task to CONSULTANT as an Extra Service
8 under Section V.C.

9 11. Provide a construction inspector to review and accept
10 CONTRACTOR's record drawings for completeness and forward this set
11 to CONSULTANT.

12 12. Provide construction contract administration services,
13 which services shall include, but may not be limited to:

- 14 a. Conducting the pre-construction conference.
- 15 b. Issuing the Notice to Proceed to the CONTRACTOR.
- 16 c. Authorizing and making progress payments.
- 17 d. Authorizing and issuing contract change orders.
- 18 e. Authorizing supplemental fund payments.
- 19 f. Accepting the project and issuing the Notice of
20 Completion.

21 C. Give reasonably prompt consideration to all matters
22 submitted by the CONSULTANT for approval to the end that there will
23 be no substantial delays in the CONSULTANT's program of work. An
24 approval, authorization or request to the CONSULTANT given by the
25 COUNTY will be binding upon the COUNTY under the terms of this
26 Agreement only if it is made in writing and signed on behalf of the
27 COUNTY by the COUNTY Representative or a designee.

28 D. Employ a Construction Inspector of Record and such

ATTACHMENT I

1 assistants as may be required. The Construction Inspector of
2 Record and his/her assistants shall have the right to monitor every
3 part of the construction work by personally inspecting the same.
4 The Construction Inspector of Record will work with the CONSULTANT
5 and will immediately call to the attention of the CONSULTANT and
6 COUNTY Representative in writing all inconsistencies or other
7 errors in the plans and specifications or departure therefrom in
8 the work. In case of the Construction Inspector of Record's doubt
9 as to the proper interpretation of plans and specifications, the
10 Construction Inspector of Record shall obtain the CONSULTANT's
11 interpretation thereof. The CONSULTANT shall communicate to the
12 CONTRACTOR only through the COUNTY Representative.

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ATTACHMENT I

1 V. COMPENSATION:

2 A. Total Fee:

3 Notwithstanding any other provisions in this Agreement,
4 the Total Fee (Basic Fee plus Extra Services Allocation) for the
5 services required under this Agreement shall be the total sum of
6 \$_____.

7 B. Basic Fee:

8 1. Notwithstanding any other provisions in this
9 Agreement, the Basic Fee for Component I services required under
10 Article III that includes Phase, 1, Needs Assessment and Financing
11 Sources Investigation, Phase 2, Building Program / Conceptual
12 Design and Site Plan, and Phase 3, Schematic Design shall not
13 exceed the total sum of \$_____. (By Amendment) The Basic Fee
14 for Component II services required under Article III that includes
15 Phase 4, Design Development, Phase 5, Construction Documents, Phase
16 6, Bidding and Award, Phase 7, Construction Observation, and Phase
17 8, Post Construction shall not exceed a total sum of \$_____.

18 2. All expenses incidental to CONSULTANT's performance of
19 services under Article III of this Agreement shall be borne by
20 CONSULTANT. Incidental expenses include, but may not be limited
21 to, transportation and travel, postage and courier services, photo
22 and duplicating services, telephone and facsimile charges, computer
23 storage media, drawing and plotting media, printing of "check
24 print" plans and plan sets and documents specifically required by
25 the provisions of Article III. of this Agreement.

26 3. Within the Total Fee limitation described in Section
27 V.A.1. above, the Basic Fee shall be divided as follows for
28 purposes of payment scheduling:

ATTACHMENT I

1	Component I	
2	Phase 1 - Needs Assessment and Financing Sources Inv.	20%
3	Phase 2 - Building Program/Conceptual Design and Site	
4	Plan	40%
5	Phase 3 - Schematic Design/Financing Study/	
6	Project Estimate	<u>40%</u>
7	Total	100%
8	Component II (By Amendment)	
9	Phase 4 - Design Development	30%
10	Phase 5 - Construction Documents	45%
11	Phase 6 - Bidding and Award	5%
12	Phase 7 - Construction Observation	15%
13	Phase 8 - Post Construction	<u>5%</u>
14	Total for Component II (Negotiated)	100%
15	C. <u>Extra Services:</u>	
16	1. There will be an additional maximum allocation of	
17	\$_____ to pay for authorized Extra Services. Payment of Extra	
18	Services in excess of \$_____ is unauthorized and can only be made	
19	pursuant to a prior written amendment to this Agreement.	
20	2. The CONSULTANT shall not undertake any Extra Services	
21	without the advance authorization of the COUNTY Representative.	
22	The CONSULTANT and the COUNTY shall expressly confirm in writing	
23	the authorization and maximum cost for any such services before the	
24	CONSULTANT is compensated for any work thereon. CONSULTANT shall	
25	not add markup percentages or costs to subconsultant's costs unless	
26	expressly authorized in writing by the COUNTY	
27	3. Payment for Extra Services will be at the hourly and	
28	cost rates set forth in Exhibit A, attached hereto and incorporated	

ATTACHMENT I

1 herein. The rates listed therein are in effect for the duration of
2 the Agreement. Such rates for Extra Services may be renegotiated
3 annually at CONSULTANT's request, if this Agreement is in effect
4 longer than one (1) year. CONSULTANT's request for annual rate
5 adjustment shall correspond with the Engineering News Record's
6 Construction Cost Index or the Consumer Price Index.

7 4. All expenses incidental to CONSULTANT's performance of
8 Extra Services under this Agreement shall be borne by CONSULTANT.
9 Incidental expenses include, but may not be limited to,
10 transportation and travel, postage and courier services, photo and
11 duplicating services, telephone and facsimile charges, computer
12 storage media, and documents specifically required by the
13 provisions of this Agreement.

14 5. The following are consultant services that are
15 considered as not included in Article III herein, but may be
16 required as Extra Services.

17 a. Providing construction observation services when
18 construction exceeds sixty (60) days beyond the original
19 construction contract schedule as adjusted for weather delays and
20 as adjusted for delays by CONSULTANT-caused change orders,
21 negligent errors, or omissions.

22 b. Conveying or transmitting construction documents
23 for agency approval when the CONSULTANT is granted prior
24 authorization by the COUNTY.

25 c. Making changes to documents that are ordered by
26 the COUNTY subsequent to COUNTY approval thereof.

27 d. Preparing change orders when the project scope is
28 changed on the basis of COUNTY-initiated requests, and such changes

ATTACHMENT I

1 are not a result of negligent errors, acts, or omissions by the
2 CONSULTANT.

3 e. If necessary, advising and assisting the COUNTY
4 with respect to any settlement or litigation arising out of any
5 failure of the CONTRACTOR to fully perform the construction
6 contract in accordance with the contract documents.

7 f. Performing a visual inspection, within one year
8 following the date of substantial completion (if requested by the
9 COUNTY, and reporting in writing on detectable defects in
10 workmanship or material.

11 g. Providing interior design services.

12 h. Providing unforeseen, extraordinary, or unique
13 services or items not covered nor normally included in the Basic
14 Fee, but authorized by the COUNTY Representative.

15 i. If requested by COUNTY, as provided for in Section
16 IV.B.10., to retain, when an independent testing laboratory to
17 provide necessary soils, chemical, structural, mechanical,
18 electrical or other tests and reports as may be necessary to assure
19 quality control and construction compliance with the plans and
20 specifications.

21 j. Conduct a commissioning of all the building's
22 mechanical, plumbing, electrical, security electronics, and other
23 systems and conduct a building maintenance staff orientation for
24 the completed project.

25 k. Providing those items under Article III which are
26 identified as Extra Services.

27 6. If the CONSULTANT becomes aware of potential
28 unforeseen expenses that would not be covered by the Basic Fee

ATTACHMENT I

1 provisions of this Agreement or by the Extra Services provisions
2 set forth in this Article V., Section C., CONSULTANT shall inform
3 the COUNTY in writing of the extent and nature of such expenses or
4 services. Upon mutual agreement of the CONSULTANT and the COUNTY,
5 this Agreement may be amended in writing to cover such unforeseen
6 expense or cost of Extra Service.

7 7. In the event the COUNTY Representative expressly
8 authorizes Extra Services, CONSULTANT shall keep complete records
9 showing the hours and description of activities worked by each
10 person who works on the project and all costs and charges
11 applicable to the Extra Services work so authorized. Should there
12 be a claim for Extra Services, the CONSULTANT understands and
13 agrees that he or she must specifically identify the activity,
14 performer of the activity, reason for the activity, and COUNTY
15 official requesting the activity, or the claim will be denied.
16 CONSULTANT shall be responsible for all subconsultants keeping
17 similar records. The CONSULTANT shall not stop the work, including
18 the design in other areas unrelated to the Extra Services request
19 or claim, unless it is shown the project design cannot proceed
20 while a claim or request for Extra Services is being evaluated.

21 D. Payments:

22 1. Progress payments will be made by the COUNTY upon
23 receipt of the CONSULTANT's monthly invoices and approval by COUNTY
24 thereof, based on the COUNTY's evaluation of the completion of the
25 respective components of the projects(s). Invoices shall clearly
26 identify the project name, phase of work, description of work,
27 percentage of phase completed and shall be submitted with the
28 documentation identified in paragraph V.D.5. below. CONSULTANT

ATTACHMENT I

1 shall submit separate invoices for Extra Services, accompanied with
2 copies of any subconsultant's invoices and costs for approved
3 incidentals.

4 a. Invoices for Phase 1, Needs Assessment / Financing
5 Sources Investiagation, Phase 2, Building Program / Conceptual
6 Design and Site Plan, Phase 3, Schematic Design / Financial Study /
7 Project Estimate, Phase 4, Design Development, Phase 5,
8 Construction Documents, Phase 6, Bidding and Award shall be
9 forwarded to:

10 Stuart G. Seiden, Capital Projects Division Mgr.
11 Fresno County Department of Public Works and
12 Planning
13 2220 Tulare Street, 6th floor
14 Fresno, CA 93721-2106

15 b. Invoices for Phase 7, Construction Observation and
16 Phase 8, Post Construction shall be forwarded to:

17 Robert Shonkwiler, Construction Engineer
18 Fresno County Department of Public Works and
19 Planning
20 2220 Tulare Street, 6th Floor
21 Fresno, CA 93721-2106

22 2. Upon receipt of a proper invoice, the COUNTY
23 Department of Public Works and Planning will take a maximum of five
24 (5) working days to review, approve, and submit it to the COUNTY
25 Auditor-Controller/Treasurer-Tax Collector. Unsatisfactory or
26 inaccurate invoices will be returned to the CONSULTANT for
27 correction and resubmittal. Payment, less retention, will be
28 issued to CONSULTANT within twenty-five (25) calendar days of the

ATTACHMENT I

1 date the Auditor-Controller/Treasurer-Tax Collector receives the
2 approved invoice.

3 3. COUNTY is entitled to and shall withhold a ten percent
4 (10%) retention from the earned compensation in accordance with the
5 provisions of Article VII of this Agreement.

6 4. An unresolved dispute over a possible negligent error
7 or omission may cause payment of CONSULTANT fees in the disputed
8 amount to be withheld by the COUNTY.

9 5. Concurrently with the invoices, the CONSULTANT shall
10 provide its certification acceptable to the COUNTY, and shall
11 provide, on COUNTY request, copies of issued checks, receipts, or
12 other COUNTY pre-approved documentation, that complete payment,
13 less a ten percent (10%) retention, has been made by CONSULTANT to
14 all subconsultants as provided herein for all previous invoices
15 approved by the COUNTY, and that CONSULTANT has complied with state
16 wage and work hour laws and regulations. However, the parties do
17 not intend that the foregoing creates in any subconsultant or
18 subcontractor a third party beneficiary status or third party
19 beneficiary rights, and expressly disclaim any such status or
20 rights.

21 6. Final invoice, and separate invoice for retentions,
22 shall be submitted to COUNTY no later than thirty (30) days after
23 the project is completed. The CONSULTANT shall provide its
24 certification acceptable to the COUNTY, on COUNTY request, that all
25 subconsultants have received full payment for services rendered and
26 work performed on the project. Payment for retentions shall not be
27 made until all post-construction services are completed in
28 accordance with the provisions of Article III, Section ____ (Post

ATTACHMENT I

1 Construction) of this Agreement, including but not limited to
2 record drawings approval, operation and maintenance manual review,
3 and furnishing of required reports.

4 7. In the event the COUNTY reduces the scope of the
5 project, the CONSULTANT will be compensated on a pro rata basis for
6 actual work completed and accepted by the COUNTY in accordance with
7 the terms of this Agreement.

8 VI. COMPENSATION RECORDS

9 The CONSULTANT shall keep complete records showing the hours
10 and description of activities performed by each person who works on
11 the project and all associated costs or charges applicable to work
12 covered by the Basic Fee and approved Extra Services. The
13 CONSULTANT additionally shall be responsible for all subconsultants
14 keeping similar records. The CONSULTANT shall maintain all such
15 records for a period of three (3) years following final payment
16 under this Agreement, consistent with the provisions of Article
17 VIII. Section C.

18 VII. RETENTION FROM EARNED COMPENSATION:

19 A. In addition to any amounts withheld under Article III.
20 Section ____.[const observation phase], COUNTY is entitled to and
21 shall withhold a ten percent (10%) retention from the earned
22 compensation of the CONSULTANT. Such retention from earned
23 compensation shall be applied to all phases of the consultant
24 services to be provided under this Agreement, including those
25 phases completed and Extra Services.

26 B. At the request and expense of the CONSULTANT, securities
27 equivalent to the amount withheld shall be deposited with the
28 COUNTY or with a state or federally chartered bank in California as

ATTACHMENT I

1 the escrow agent, in accordance with Section 22300 of the
2 California Public Contract Code, attached hereto as Exhibit B and
3 incorporated herein, which provides for the substitution of
4 securities for any moneys withheld by a public agency to ensure
5 performance under a contract. If such request is made by the
6 CONSULTANT, the escrow agreement shall be prepared by CONSULTANT in
7 compliance with the above-referenced statute and it may be executed
8 by the Director of the Department of Public Works and Planning.

9 C. When the construction contract has been satisfactorily
10 performed to the eighty percent (80%) point of completion without
11 major pending claims, disputes or other matters in question between
12 the parties, the COUNTY may, at its discretion, reduce the
13 retention from ten percent (10%) to five percent (5%), and the
14 resulting surplus funds, less any current-phase or Extra Service
15 retention, will be paid by COUNTY to CONSULTANT at that time. The
16 final retention of five percent (5%) will be paid in accordance
17 with the payment provisions of this Agreement and upon receipt of
18 proper invoice, within forty-five (45) days after completion of all
19 of CONSULTANT's obligations under this Agreement, including the
20 resolution of all claims and disputes between COUNTY and
21 CONSULTANT.

22 VIII. AUDITS, ACCOUNTING AND INSPECTIONS ACCESS:

23 A. The CONSULTANT shall use established accounting and
24 bookkeeping practices, including but not limited to, employee time
25 cards, payrolls, and other records of transactions, in order to
26 ensure appropriate documentation for all payments made hereunder,
27 including those made from State Grant and Federal Grant (HUD/CDBG)
28 funds.

ATTACHMENT I

1 B. The CONSULTANT shall at any time during regular business
2 hours, and as often as the COUNTY may deem necessary, make
3 available for examination by Federal or State of California
4 authorities, or the COUNTY Auditor-Controller/Treasurer-Tax
5 Collector, or their authorized representatives, all of CONSULTANT's
6 records and data with respect to matters covered by this Agreement.
7 The CONSULTANT shall permit Federal, State of California, or COUNTY
8 authorities to audit and inspect all invoices, materials, payrolls,
9 records of personnel, conditions of employment, and other data
10 relating to matters covered by this Agreement.

11 C. The CONSULTANT shall be subject to the examination and
12 audit of the Auditor General for a period of three (3) years after
13 final payment under this Agreement (Government Code Section 8546.7)

14 IX. ERRORS OR OMISSION CLAIMS AND DISPUTES:

15 A. Definitions:

16 1. A "Consultant" is a duly licensed Architect or
17 Engineer, or other provider of professional services, acting as a
18 business entity (owner, partnership, corporation, joint venture or
19 other business association) in accordance with the terms of an
20 Agreement with the COUNTY.

21 2. A "Claim" is a demand or assertion by one of the
22 parties seeking, as a matter of right, adjustment or interpretation
23 of contract terms, payment of money, extension of time, change
24 orders, or other relief with respect to the terms of the contract.

25 The term "Claim" also includes other disputes and matters in
26 question between the COUNTY and CONSULTANT arising out of or
27 relating to the contract. Claims must be made by written notice.
28 The provisions of Government Code section 901, et seq., shall apply

ATTACHMENT I

1 to every claim made to COUNTY. The responsibility to substantiate
2 claims shall rest with the party making the claim. The term
3 "Claim" also includes any allegation of an error or omission by the
4 CONSULTANT.

5 B. In the spirit of cooperation between the COUNTY and
6 CONSULTANT, the following procedures are established in the event
7 of any claim or dispute by the COUNTY or CONSULTANT alleging a
8 negligent error, act, or omission.

9 1. Claims, disputes or other matters in question between
10 the parties, arising out of or relating to this Agreement, shall
11 not be subject to arbitration, but shall be subject to the
12 following procedures.

13 2. The project manager of COUNTY and CONSULTANT shall
14 meet and confer and attempt to reach agreement on any dispute,
15 including what damages have occurred, the measure of damages and
16 what proportion of damages, if any, shall be paid by either party.
17 The parties agree to consult and consider the use of mediation or
18 other form of dispute resolution prior to resorting to litigation.

19 3. If the COUNTY and CONSULTANT cannot reach agreement
20 under the immediately preceding paragraph IX.B.2., the disputed
21 issues may, upon concurrence by all parties, be submitted to a
22 panel of three (3) for a recommended resolution. The CONSULTANT
23 and the COUNTY shall each select one (1) member of the panel, and
24 the third member shall be selected by the other two panel members.
25 The discovery rights provided by California Code of Civil Procedure
26 for civil proceedings shall be available and enforceable to resolve
27 the disputed issues. Either party requesting this dispute
28 resolution process shall, when invoking the rights to this panel,

ATTACHMENT I

1 give to the other party a notice describing the claims, disputes
2 and other matters in question. Prior to 20 days before the initial
3 meeting of the panel, both parties shall submit all documents such
4 party intends to rely upon to resolve such dispute. If it is
5 determined by the panel that any party has relied on such
6 documentation, but has failed to previously submit such
7 documentation on a timely basis to the other party, the other party
8 shall be entitled to a 20-day continuance of such initial meeting
9 of the panel. The decision by the panel is not a condition
10 precedent to arbitration, mediation or litigation.

11 4. Upon receipt of the panel's recommended resolution of
12 the disputed issues, the COUNTY and the CONSULTANT shall again meet
13 and confer and attempt to reach agreement. If the parties still
14 are unable to reach agreement, each party shall have recourse to
15 all appropriate legal and equitable remedies.

16 C. The procedures to be followed in the resolution of claims
17 and disputes may be modified at any time by mutual agreement of the
18 parties hereto.

19 D. The CONSULTANT shall continue to perform its obligations
20 under this Agreement pending resolution of any dispute, and the
21 COUNTY shall continue to make payments of all undisputed amounts
22 due under this Agreement.

23 E. When a claim by either party has been made alleging the
24 CONSULTANT's negligent error, act, or omission, the COUNTY Project
25 Manager and the CONSULTANT shall meet and confer within twenty-one
26 (21) days after the written notice of the claim has been provided.

27 X. JOINDER OF PARTIES

28 The CONSULTANT, the CONSULTANT's consultants of any tier,

ATTACHMENT I

1 subcontractors of any tier, suppliers and construction lenders
2 shall all be bound by the dispute resolution provisions of this
3 Agreement, and immediately upon demand of COUNTY or CONSULTANT,
4 shall participate in and shall become parties to the dispute
5 resolution process, provided they have signed any document that
6 incorporates or refers to the dispute resolution provisions of this
7 Agreement. Failure of CONSULTANT, whether intended or inadvertent,
8 to ensure that such nonparties have signed such a document shall
9 inure only to CONSULTANT's detriment, if any there be. COUNTY
10 shall not suffer a detriment by CONSULTANT's action or inaction in
11 this regard. If such a party after due notice fails to appear at
12 and participate in the dispute resolution proceedings, the panel
13 established in accordance with the provisions of paragraph IX.B.3.
14 shall make a decision based on evidence introduced by the party or
15 parties who do participate.

16 XI. CONSULTANT'S OBLIGATIONS RELATING TO CONSTRUCTION CLAIMS

17 A. The CONSULTANT will review and analyze construction
18 contract claims and recommend resolution of them as soon as
19 possible following receipt of demand by COUNTY.

20 B. Within a reasonable time after receipt of a claim, the
21 CONSULTANT shall provide a written analysis of the claim to the
22 COUNTY, signed by the CONSULTANT and any affected sub-consultants.
23 The written analysis shall include the CONSULTANT's professional
24 opinion of the responsibility for payment of the claim, with
25 supporting facts and documentation. A copy of the written analysis
26 shall be provided to the respective insurance adjusters for
27 CONSULTANT and any affected sub-consultant.

28 C. Upon receipt of a claim, the CONSULTANT may also take one

ATTACHMENT I

1 (1) or more of the following actions, within ten (10) days of
2 receipt of a claim:

3 1. Request additional supporting data from the claimant,
4 requiring that such data be supplied within ten (10) days of the
5 request;

6 2. Submit a schedule to the parties indicating when the
7 CONSULTANT expects to respond to the claim, which schedule shall
8 not exceed thirty (30) days from CONSULTANT's original receipt of
9 the claim;

10 3. Recommend rejection of the claim in whole or in part,
11 stating the reasons for such rejection;

12 4. Recommend approval of the claim by the other party, or

13 5. Suggest a compromise.

14 D. In every case, CONSULTANT shall provide its recommended
15 resolution of a claim within thirty (30) days from the original
16 receipt of claim, unless the CONSULTANT obtains COUNTY's prior
17 written approval.

18 XII. INDEPENDENT CONTRACTOR:

19 A. In performance of the work, duties, and obligations
20 assumed by CONSULTANT under this Agreement, it is mutually
21 understood and agreed that CONSULTANT, including any and all of
22 CONSULTANT's officers, agents and employees, will at all times be
23 acting and performing as an independent contractor, and shall act
24 in an independent capacity and not as an officer, agent, servant,
25 employee, joint venturer, partner or associate of the COUNTY.
26 Furthermore, COUNTY shall have no right to control or supervise or
27 direct the manner or method by which CONSULTANT shall perform its
28 work and function. However, COUNTY shall retain the right to

ATTACHMENT I

1 administer this Agreement so as to verify that CONSULTANT is
2 performing its obligations in accordance with the terms and
3 conditions thereof. CONSULTANT and COUNTY shall comply with all
4 applicable provisions of law and the rules and regulations, if any,
5 of governmental authorities having jurisdiction over matters the
6 subject thereof.

7 B. Because of its status as an independent contractor,
8 CONSULTANT shall have absolutely no right to employment rights and
9 benefits available to COUNTY employees. CONSULTANT shall be solely
10 liable and responsible for providing to, or on behalf of its
11 employees all legally-required employee benefits. In addition,
12 CONSULTANT shall be solely responsible and save COUNTY harmless
13 from all matters relating to payment of CONSULTANT's employees,
14 including compliance with Social Security, withholding, and all
15 other regulations governing such matters. It is acknowledged that
16 during the term of this Agreement CONSULTANT may be providing
17 services to others unrelated to the COUNTY or to this Agreement.

18 XIII. PARTIES BOUND BY AGREEMENT:

19 This Agreement shall be binding upon the COUNTY, the
20 CONSULTANT, and their successors in interest, legal
21 representatives, executors, administrators, and assigns with
22 respect to all covenants as set forth herein.

23 XIV. REQUIRED APPROVALS:

24 It is understood that the CONSULTANT shall not assign, sublet,
25 subcontract, or transfer any of CONSULTANT's rights, duties, or
26 obligations under this Agreement, without the prior express,
27 written consent of the COUNTY. Such consent and approval may be
28 given only by the COUNTY Board of Supervisors.

ATTACHMENT I

1 XV. COMPLIANCE WITH LAWS:

2 A. CONSULTANT shall comply with all applicable federal,
3 state, and local laws, ordinances, regulations, and Fresno County
4 Charter Provisions in effect at the time of CONSULTANT's
5 performance of the professional services to be provided hereunder.

6 B. CONSULTANT shall also comply with current rules and
7 regulations established pursuant to the federal Housing and
8 Development Act of 1974 and its amendments including, but not
9 necessarily limited to, those requirements listed in Exhibit C,
10 attached hereto and incorporated herein.

11 XVI. GOVERNING LAW:

12 A. Any controversy or claim arising out of or relating to
13 this Agreement which cannot be amicably settled without court
14 action shall be litigated either in a state court for Fresno
15 County, California, or in the U.S. District Court for the Eastern
16 District of California, located in Fresno County.

17 B. The rights and obligations of the parties and all
18 interpretations and performance of this Agreement shall be governed
19 in all respects by the laws of the State of California.

20 XVII. AMENDMENTS:

21 Any changes to this Agreement requested either by the COUNTY
22 or CONSULTANT may only be effected if mutually agreed upon in
23 writing by duly authorized representatives of the parties hereto.
24 This Agreement shall not be modified or amended, nor shall any
25 rights of a party hereto be waived, except by such a writing.

26 XVIII. CONSULTANT'S LEGAL AUTHORITY:

27 *[FOR CALIFORNIA CORPORATIONS:]* Each individual executing
28 this Agreement on behalf of CONSULTANT hereby covenants, warrants,

ATTACHMENT I

1 and represents: (i) that he or she is duly authorized to execute
2 and deliver this Agreement on behalf of such corporation in
3 accordance with a duly adopted resolution of the corporation's
4 board of directors and in accordance with such corporation's
5 articles of incorporation or charter and bylaws; (ii) that this
6 Agreement is binding upon such corporation; and (iii) that
7 CONSULTANT is a duly organized and legally existing corporation in
8 good standing in the State of California.

9 [FOR CALIFORNIA PARTNERSHIPS:] Each individual executing this
10 Agreement on behalf of CONSULTANT hereby covenants, warrants, and
11 represents: (i) that he or she is duly authorized to execute and
12 deliver this Agreement on behalf of such partnership in accordance
13 with its Partnership Agreement; and (ii) that this Agreement is
14 binding upon such partnership; and (iii) that CONSULTANT is a duly
15 organized and legally existing partnership in the State of
16 California.

17 [FOR OUT OF STATE CORPORATIONS:] Each individual executing
18 this Agreement on behalf of CONSULTANT hereby covenants, warrants,
19 and represents: (i) that he or she is duly authorized to execute
20 and deliver this Agreement on behalf of such corporation in
21 accordance with a duly adopted resolution of the corporation's
22 board of directors and in accordance with such corporation's
23 articles of incorporation or charter and bylaws; (ii) that this
24 Agreement is binding upon such corporation; (iii) that CONSULTANT
25 is duly organized and legally existing corporation in good standing
26 in the State of _____, is registered with the California
27 Secretary of State to do business in the State of California as a
28 foreign corporation, and; (iv) that each individual executing or

ATTACHMENT I

1 attesting this Agreement on behalf of CONSULTANT hereby covenants,
2 warrants, and represents:

3 a. That this Agreement is binding upon such
4 corporation; and

5 b. That CONSULTANT shall deliver to COUNTY all
6 necessary certificates and assurances indicating CONSULTANT's right
7 to conduct business in the State of California including but not
8 limited to certificates filed with the California Secretary of
9 State to conduct business in California and the name and
10 California-based address of CONSULTANT's agent for receipt of
11 service of process.

12 [FOR SOLE PROPRIETOR:] Each individual executing this
13 Agreement on behalf of CONSULTANT, a sole proprietor, hereby
14 covenants, warrants, and represents: (i) that he or she is duly
15 authorized to execute and deliver this Agreement on behalf of such
16 sole proprietor; and (ii) that this Agreement is binding upon such
17 proprietor.

18 XIX. HOLD HARMLESS:

19 A. CONSULTANT shall hold harmless and indemnify and at
20 COUNTY's request defend COUNTY, its officers, agents, and
21 employees, against the payment of any and all costs and expenses
22 (including reasonable attorney fees and court costs), damages,
23 claims, suits, losses, and liability for bodily and personal injury
24 to or death of any person or for loss of any property resulting
25 from or arising out of any negligent or wrongful acts, errors or
26 omissions of CONSULTANT, its officers, agents, and employees, in
27 performing or failing to perform any work, services, or functions
28 under this Agreement.

ATTACHMENT I

1 B. COUNTY and CONSULTANT hereby declare their mutual intent
2 to cooperate in the defense of any claim, suit, or other action
3 alleging liability, arising from the negligent performance or
4 failure to perform of any COUNTY contractor or subcontractor in
5 connection with the project. Such cooperation may include an
6 agreement to prepare and present a cooperative defense after
7 consultation with CONSULTANT's professional liability insurance
8 carrier.

9 XX. LIABILITY INSURANCE:

10 A. Prior to commencing the duties under the Agreement with
11 the COUNTY, the CONSULTANT shall furnish the COUNTY, at no
12 additional cost to the COUNTY, certificates for the following
13 insurance policies which shall be kept in force at all times during
14 the term of the Agreement (i.e., until the Agreement is terminated
15 or it expires), and for such additional time as may be specified
16 herein with respect to a particular type of policy.

17 1. Commercial General Liability Insurance naming the
18 COUNTY as an additional insured, with limits of not less than
19 \$1,000,000 per occurrence, with an annual aggregate of not less
20 than \$2,000,000.

21 2. Comprehensive Automobile Liability Insurance with
22 limits for bodily injury of not less than \$250,000 per person,
23 \$500,000 per accident and for property damages of not less than
24 \$50,000, or such coverage with a combined single limit of \$500,000.

25 3. Worker's Compensation insurance policy as required by
26 the California Labor Code.

27 4. Project Specific Professional Liability Insurance
28 Policy:

ATTACHMENT I

1 a. In the minimum amount of at least \$5,000,000
2 coverage per claim, with an annual aggregate of at least
3 \$5,000,000, and with a deductible not to exceed \$50,000. A
4 deductible greater than \$50,000 will be accepted upon the COUNTY
5 receiving satisfactory, certified information of the CONSULTANT's
6 ability to support such a deductible. The financial ability to
7 support the difference between the \$50,000 and greater deductible
8 amount requested by CONSULTANT shall be guaranteed by any of the
9 following:

10 1. Cash deposit with a trustee bank.
11 2. Irrevocable letter of credit issued by a bank
12 for a period sufficient for the COUNTY to determine if there is a
13 claim to be made against the CONSULTANT, e.g. six months after
14 termination of Agreement.

15 3. Withholding payment under terms of the
16 Agreement for the same period as under Article VII. herein.

17 b. CONSULTANT and subconsultants shall make full
18 disclosure, in writing to the COUNTY, of all pending and open
19 claims and disputes during the course of this Agreement that affect
20 the specified aggregate limits of the Professional Liability
21 Insurance policy.

22 c. Project specific professional liability insurance
23 policy shall extend for a minimum of two (2) years past the date of
24 final payment to CONSULTANT, including the resolution of all
25 claims, disputes, and matters in question regarding the project.

26 d. In the event that CONSULTANT voluntarily changes,
27 or involuntarily changes, due to circumstances beyond its control,
28 its project specific professional liability insurance policy

ATTACHMENT I

1 carrier during the period such coverage is required to be in force
2 (as specified in the immediately preceding subparagraph XX.A.4.c),
3 such new policy shall include prior acts coverage retroactive, at
4 least, to the date of execution of this Agreement. CONSULTANT may,
5 at its option and expense, purchase supplemental or "tail" coverage
6 from the former policy carrier, negotiate a retroactive reporting
7 date with the new policy carrier for claims incurred but not
8 reported as of the date of change in policy carrier, and shall in
9 any event maintain Professional Liability Insurance in a manner
10 that provides continuous coverage to the COUNTY throughout the term
11 of this Agreement, and for a period of two (2) years past the
12 issuance of final payment to the CONSULTANT.

13 e. The CONSULTANT shall, provide project specific
14 professional liability insurance for itself and all sub-consultants
15 for this project, extending from the beginning of Design
16 Development Phase to two (2) years past the issuance of final
17 payment hereunder to the CONSULTANT. This time period specifically
18 includes that time required for the resolution of all claims and
19 disputes.

20 f. The CONSULTANT shall provide a vicarious interest
21 endorsement to its professional liability insurance policy,
22 indemnifying the COUNTY for liabilities, damages and/or judgments,
23 and reasonable attorney's fees and related costs (a) to the
24 proportionate extent caused by the negligent errors, acts or
25 omissions of CONSULTANT and (b) in excess of the deductible
26 obligation and subject to all of the terms, conditions and
27 exclusions of the professional liability insurance policy.

28 B. All policies shall be with admitted insurers licensed to

ATTACHMENT I

1 do business in the State of California. CONSULTANT shall give
2 COUNTY at least thirty (30) days written advance notice of any
3 expiration, cancellation or reduction in the coverage of any of the
4 aforesaid policies. Insurance purchased shall be purchased from
5 companies possessing a current A.M. Best, Inc. rating of B+ FSC
6 VIII or better.

7 C. The COUNTY, its officers, agents and employees,
8 individually and collectively, shall be named as an additional
9 insured under the policy for Commercial General Liability
10 Insurance, but only insofar as the operations under this Agreement
11 are concerned. Such coverage of COUNTY as additional insured shall
12 apply as primary insurance and any other insurance, or
13 self-insurance, maintained by the COUNTY, its officers, agents, and
14 employees, shall be excess only and not contributing with insurance
15 provided under the CONSULTANT's policies herein.

16 D. In the event CONSULTANT fails to keep in effect at all
17 times insurance coverage as herein provided, the COUNTY may, in
18 addition to other remedies it may have, suspend or terminate this
19 Agreement upon the occurrence of such event.

20 XXI. OWNERSHIP OF DOCUMENTS:

21 A. CONSULTANT understands and agrees that COUNTY shall retain
22 full ownership rights of the drawings and the work-product of
23 CONSULTANT for the project, to the fullest extent permitted by law.
24 In this regard, CONSULTANT acknowledges and agrees that
25 CONSULTANT's services are on behalf of COUNTY and are "works made
26 for hire," as that term is defined in copyright law, by COUNTY;
27 that the drawings and work-product to be prepared by CONSULTANT are
28 for the sole and exclusive use of COUNTY, and shall be the sole

ATTACHMENT I

1 property of COUNTY and its assigns, and the COUNTY and its assigns
2 shall be the sole owner of all patents, copyrights, trademarks,
3 trade secrets and other contractual and intangible rights of any
4 kind or nature in connection therewith; that all the contractual or
5 intangible rights of any kind or nature, title, and interest in and
6 to the drawings and work-product will be transferred to COUNTY by
7 CONSULTANT, and CONSULTANT will assist COUNTY to obtain and enforce
8 patents, copyrights, trademarks, trade secrets, and other
9 contractual and intangible rights of any kind or nature relating to
10 said drawings and work-product; that COUNTY shall be and become the
11 owner of such drawings and work product, free and clear of any
12 claim by CONSULTANT or anyone claiming any right through
13 CONSULTANT. CONSULTANT further acknowledges and agrees that
14 COUNTY's ownership rights in such drawings and work product shall
15 apply regardless of whether such drawings or work product, or any
16 copies thereof, are in the possession of CONSULTANT, or any other
17 person, firm, corporation, or entity. For the purpose of this
18 Agreement the terms "drawings and work-product" shall mean all
19 reports and study findings commissioned to develop the design of
20 the project, drawings and schematic or preliminary design documents
21 of the project, certified reproducibles of the original final
22 construction contract drawings of the project, specifications of
23 the project, the approved opinion of probable construction cost of
24 the project, record drawings of the project, as-built plans of the
25 project, and discoveries, developments, designs, improvements,
26 inventions, formulas, processes, techniques, or specific know-how
27 and data generated or conceived or reduced to practice or learning
28 by CONSULTANT, either alone or jointly with others, that result

ATTACHMENT I

1 from the tasks assigned to CONSULTANT by COUNTY under this
2 Agreement. COUNTY acknowledges and agrees that details, concepts,
3 ideas, devices, configurations, and designs previously developed or
4 used by CONSULTANT, or developed by CONSULTANT and use is granted
5 to COUNTY only for the specific project undertaken under this
6 Agreement.

7 B. If the Agreement is terminated during or at the completion
8 of the preliminary design phase under Article III, a reproducible
9 copy of the preliminary design documents shall be submitted by
10 CONSULTANT to the COUNTY, which may use them to complete the
11 project in future phases.

12 C. If the project is terminated at the completion of the
13 construction document phase of the project, the original final
14 construction contract drawings, specifications, and approved
15 opinion of probable construction cost shall be submitted by
16 CONSULTANT to COUNTY.

17 D. Documents, including drawings and specifications, prepared
18 by CONSULTANT for any project pursuant to this Agreement are not
19 intended or represented to be suitable for reuse by COUNTY or
20 others on extensions of the services provided for this project or
21 any other project. Any use of completed documents for other
22 projects and/or any use of uncompleted documents will be at
23 COUNTY's sole risk and without liability or legal exposure to
24 CONSULTANT.

25 E. COUNTY has requested that certain machine-readable
26 information and data ("CAD data") be provided by CONSULTANT for
27 this project under this Agreement. Such CAD data is more
28 specifically described in Article III. CONSULTANT shall not be

ATTACHMENT I

1 liable for claims, liabilities or losses arising out of, or
2 connected with (1) the modification or misuse by COUNTY, or anyone
3 authorized by COUNTY, of such CAD data; or (2) decline of accuracy
4 or readability of CAD data due to inappropriate storage conditions
5 or duration; or (3) any use by COUNTY, or anyone authorized by
6 COUNTY, of such CAD data for additions to this project or for the
7 completion of this project by others, or for other projects.

8 XXII. TIME OF COMPLETION:

9 A. The parties hereto agree to the Production Schedule that
10 will be developed with the building program.

11 B. CONSULTANT shall not be held responsible for delays caused
12 by COUNTY review, or by similar reasons beyond CONSULTANT's
13 control.

14 C. Time is of the essence in the completion of the services
15 covered by this Agreement. Failure of the CONSULTANT to meet any
16 specific date in the above-referenced schedule, once such failure
17 exceeds fourteen (14) calendar days past the specified completion
18 date (unless the delay is attributable to the COUNTY or State), is
19 sufficient cause to immediately terminate this Agreement at the
20 option of the COUNTY in accordance with Article XXIII.C.

21 D. Consultant shall complete all services required under this
22 Agreement and this Agreement shall expire on _____ unless it is
23 extended in writing by the Director of Public Works and Planning or
24 his/her designee, or it is terminated earlier in accordance with
25 the provisions of Article XXIII.

26 XXIII. TERMINATION OF AGREEMENT:

27 A. This Agreement may be terminated without cause at any time
28 by the COUNTY upon thirty (30) calendar days written notice. If

ATTACHMENT I

1 the COUNTY terminates this Agreement, the CONSULTANT shall be
2 compensated for services satisfactorily completed to the date of
3 termination based upon the compensation rates and subject to the
4 maximum amounts payable agreed to in Article V, together with such
5 additional services satisfactorily performed after termination
6 which are expressly authorized by the COUNTY Representative in
7 order to conclude the work performed to date of termination.

8 B. If the CONSULTANT purports to terminate the Agreement, or
9 otherwise refuses to perform pursuant to the Agreement, for reasons
10 other than material breach by the COUNTY, the CONSULTANT shall
11 reimburse the COUNTY, up to a maximum of \$10,000 for the actual
12 expense of issuing a Request For Proposal (RFP), engaging a new
13 CONSULTANT, and the new CONSULTANT's cost in becoming familiar with
14 the previous CONSULTANT's design, in addition to any other legal or
15 equitable remedy or expense available to the COUNTY.

16 C. The COUNTY may immediately suspend or terminate this
17 Agreement in whole or in part, where in the determination of the
18 COUNTY there is:

- 19 1. An illegal or improper use of funds;
- 20 2. A failure to comply with any term of this Agreement;
- 21 3. A substantially incorrect or incomplete report
22 submitted to the COUNTY;
- 23 4. Improperly performed service.

24 D. In no event shall any payment by the COUNTY constitute a
25 waiver by the COUNTY of any breach of this Agreement or any default
26 which may then exist on the part of the CONSULTANT. Neither shall
27 such payment impair or prejudice any remedy available to the COUNTY
28 with respect to the breach or default. The COUNTY shall have the

ATTACHMENT I

1 right to demand of the CONSULTANT the repayment to the COUNTY of
2 any funds disbursed to the CONSULTANT under this Agreement, which,
3 in the judgment of the COUNTY and as determined in accordance with
4 the procedures of Article IX ("Errors or Omissions Claims and
5 Disputes"), were not expended in accordance with the terms of this
6 Agreement. The CONSULTANT shall promptly refund any such funds
7 upon demand.

8 E. The terms of this Agreement, and the services to be
9 provided thereunder, are contingent on the approval of funds by the
10 appropriating government agency. Should sufficient funds not be
11 allocated, the services provided may be modified, or this Agreement
12 terminated at any time by giving the CONSULTANT thirty (30) days
13 advance written notice.

14 XXIV. CONFLICT OF INTEREST:

15 The CONSULTANT shall comply with the provisions of the COUNTY
16 Conflict of Interest Code, attached hereto as Exhibit D and
17 incorporated herein. Such compliance shall include the filing of
18 annual statements pursuant to the regulations of the State Fair
19 Political Practices Commission.

20 XXV. ENTIRE AGREEMENT:

21 This Agreement constitutes the entire agreement between the
22 COUNTY and the CONSULTANT with respect to the subject matter hereof
23 and supersedes all previous negotiations, proposals, commitments,
24 writings, advertisements, publications, and understandings of any
25 nature whatsoever unless expressly included in this Agreement.

26 XXVI. SEVERABILITY:

27 Should any provision herein be found or deemed to be invalid,
28 this Agreement shall be construed as not containing such provision,

ATTACHMENT I

1 and all other provisions which are otherwise lawful shall remain in
2 full force and effect, and to this end the provisions of this
3 Agreement are hereby declared to be severable.

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ATTACHMENT I

1 IN WITNESS WHEREOF, the parties hereto have caused this Agreement
2 to be executed as of the day and year first above written.

3 **CONTRACTOR / CONSULTANT NAME** **COUNTY OF FRESNO**

4

5 BY: _____ BY: _____
CHAIRMAN, BOARD OF SUPERVISORS

6 TITLE: _____
7 (Insert address, tel, fax)

8 FEDERAL ID NO. _____

9 REVIEWED AND RECOMMENDED FOR APPROVAL
10 APPROVED AS TO LEGAL FORM
PHILLIP s. CRONIN, COUNTY COUNSEL

11 BY: _____
12 RICHARD L. BROGAN, DIRECTOR
13 DEPARTMENT OF PUBLIC WORKS AND PLANNING

BY: _____

14 Fund: 0001 / Subclass: 10000 /
15 Org: 1910 / Account: 8150 /
Program: 87757

APPROVED AS TO ACCOUNTING FORM

16 BY: _____
17 VICKI CROW, C.P.A.
18 AUDITOR-CONTROLLER/TREASURER-
19 TAX COLLECTOR

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EXHIBIT A

**Coroner / Public Administrator / Public Guardian
Facility**

CONSULTANT AND SUBCONSULTANTS; HOURLY RATES

Others at County Pre-approve rates

All expenses incidental to CONSULTANT's performance of services under this Agreement shall be borne by the CONSULTANT (refer to Article V.B.3).

BZ:bz

EXHIBIT B

Public Contract Code Section 22300.

22300 (a) Provisions shall be included in any invitation for bid and in any contract documents to permit the substitution of securities for any moneys withheld by a public agency to ensure performance under a contract; however, substitution of securities provisions shall not be required in contracts in which there will be financing provided by the Farmers Home Administration of the United States Department of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921 et seq.), and where federal regulations or policies, or both, do not allow the substitution of securities. At the request and expense of the contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to the contractor. Upon satisfactory completion of the contract, the securities shall be returned to the contractor.

(b) Alternatively, the contractor may request and the owner shall make payment of retentions earned directly to the escrow agent at the expense of the contractor. At the expense of the contractor, the contractor may direct the investment of the payments into securities and the contractor shall receive the interest earned on the investments upon the same terms provided for in this section for securities deposited by the contractor. Upon satisfactory completion of the contract, the contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the owner, pursuant to the terms of this section.

(c) Securities eligible for investment under this section shall include those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the contractor and the public agency. The contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon. Failure to include these provisions in bid and contract documents shall void any provisions for performance retentions in a public agency contract. For purposes of this section, the term "public agency" shall include, but shall not be limited to, chartered cities.

(d) (1) Any contractor who elects to receive interest on moneys withheld in retention by a public agency shall, at the request of any subcontractor, make that option available to the subcontractor regarding any moneys withheld in retention by the contractor from the subcontractor. If the contractor elects to receive interest on any moneys withheld in retention by a public agency, then the subcontractor shall receive the identical rate of interest received by the contractor on any retention moneys withheld from the subcontractor by the contractor, less any actual pro rata costs associated with administering and calculating that interest. In the event that the interest rate is a fluctuating rate, the rate for the subcontractor shall be determined by calculating the interest rate paid during the time that retentions were withheld from the subcontractor. If the contractor elects to substitute securities in lieu of retention, then, by mutual consent of the contractor and subcontractor, the subcontractor may substitute securities in exchange for the release of moneys held in retention by the contractor.

(2) This subdivision shall apply only to those subcontractors performing more than five percent of the contractor's total bid.

(3) No contractor shall require any subcontractor to waive any provision of this section.

(e) The Legislature hereby declares that the provisions of this section are of statewide concern and are necessary to encourage full participation by contractors and subcontractors in public contract procedures.

(f) The escrow agreement used hereunder shall be null, void, and unenforceable unless it is substantially similar to the following form:

EXHIBIT B

ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between

whose address is _____ hereinafter called "Owner,"

whose address is _____ hereinafter called "Contractor" and

whose address is _____ hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, the Owner, Contractor, and Escrow Agent agree as follows:

(1) Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner pursuant to the Construction Contract entered into between the Owner and Contractor for _____ in the amount of _____ dated _____ (hereinafter referred to as the "Contract"). Alternatively, on written request of the Contractor, the Owner shall make payments of the retention earnings directly to the Escrow Agent. When the Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Owner within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the Owner and Contractor. Securities shall be held in the name of _____, and shall designate the Contractor as the beneficial owner.

(2) The Owner shall make progress payments to the Contractor for those funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

(3) When the Owner makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until the time that the escrow created under this contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the Owner pays the Escrow Agent directly.

(4) Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the Owner. These expenses and payment terms shall be determined by the Owner, Contractor, and Escrow Agent.

(5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the Owner.

(6) Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from the Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.

(7) The Owner shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven days' written notice to the Escrow Agent from the owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the Owner.

(8) Upon receipt of written notification from the Owner certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.

(9) Escrow Agent shall rely on the written notifications from the Owner and the Contractor pursuant to Sections (5) to (8), inclusive, of this Agreement and the Owner and Contractor shall hold Escrow Agent

EXHIBIT B

harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

EXHIBIT B

On behalf of Owner:

Title

Name

Signature

Address

On behalf of Contractor:

Title

Name

Signature

Address

On behalf of Escrow Agent:

Title

Name

Signature

Address

At the time the Escrow Account is opened, the Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Owner

Title

Name

Signature

Contractor

Title

Name

Signature

EXHIBIT C

FEDERAL HOUSING and DEVELOPMENT ACT of 1974

1. Office of Management and Budget Circulars No. A-102 revised, A-87, A-110 and A-122 as they relate to the acceptance and use of Federal funds under this program.
2. Executive Order 11063, as amended by Executive Order 12259, and implementing regulations at 24 CFR Part 107, as they relate to non-discrimination in housing.
3. Copeland "Anti-Kick Back" Act (18 U.S.C. 874 and 29 CFR, Part 3).
4. Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330 and 29 CFR, Part 5).
5. The Architectural Barriers Act of 1968 (42 U.S.C. 4151).
6. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and implementing regulations 24 CFR Part 1 as it relates to prohibiting discriminatory action under any activity receiving Federal funds.
7. Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, and implementing regulations 24 CFR Part 107 as it relates to fair housing.
8. Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR Chapter 60.
9. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 92-112) as amended and implementing regulations when published for effect as they relate to non-discrimination against the handicapped.
10. The Age Discrimination Act of 1975, (Pub. L. 94-135) as amended, and implementing regulations contained in 10 CFR Part 1040 and 45 CFR Part 90.
11. Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto (24 CFR Section 570.601) as it relates to prohibiting discriminatory actions in activities funded by Community Development funds.
12. No member, officer or employee of the Grantee, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Grant, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification.
13. The provisions of the Hatch Act which limits the political activity of employees.

EXHIBIT C

14. Title I of the Housing and Community Development Act of 1974 and implementing regulations contained in 24CFR, Part 570.
15. 29 CFR Section 91.100 and following (Executive Order 12549) certification regarding disbarment, suspension, ineligibility, and voluntary exclusion – lower tier covered transactions.

EXHIBIT D

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

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THIS DOCUMENT IS CURRENT THROUGH REGISTER 2001, NO. 40, OCTOBER 5, 2001 *

TITLE 2. ADMINISTRATION

DIVISION 6. FAIR POLITICAL PRACTICES COMMISSION

CHAPTER 7. CONFLICTS OF INTEREST

ARTICLE 2. DISCLOSURE

2 CCR 18730 (2001)

18730. Provisions of Conflict of Interest Codes

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code section 87300 or the amendment of a conflict of interest code within the meaning of Government Code section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Government Code sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees are also specified in Government Code section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code section 87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving

EXHIBIT D

office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later.

(D) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the

EXHIBIT D

designated employee's position with the business entity.

(A) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Government Code Section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$320.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$320 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office,
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.
4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(F) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the

EXHIBIT D

person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans."

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

a. The date the loan was made,

b. The date the last payment of one hundred dollars (\$100) or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars (\$2,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars (\$2,000) or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$320 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services or 18705.2(c) totaling in value one thousand dollars (\$1,000) or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

EXHIBIT D

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code section 83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code sections 81000-91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003.

¹Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code section 81004.

²See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

AUTHORITY: Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

HISTORY:

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14). Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed i-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b)(7)(B)l. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).
5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 4-6). '
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative li-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).
9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5,5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).
11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b) (8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14- 95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4- (Register 96, No. 13).
16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1) (B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).
18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4-(d) (Register 98, No. 35).
19. Editorial correction of subsection (a) (Register 98, No. 47),
20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).
21. Amendment of subsections (b)(8.1)-(b)(8.i)(A) and (b)(9)(E) filed 12-6-2000; operative 1-I-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).
22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001, Submitted to OAL for filing pursuant to Fair Political

EXHIBIT D

Practices Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974- Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).

23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to Fair Political Practices Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).